

HAMPTON PLANNING BOARD
Minutes of November 7, 2007

PRESENT: Tracy Emerick, Chair
Keith Lessard
Fran McMahon, Clerk
Jim Workman, Selectman Member
Tom Higgins
Bill Faulkner
Robert Bilodeau, Alternate
James Steffen, Town Planner
ABSENT: Robert Viviano, Vice-Chair

I. CALL TO ORDER at 7:00 PM

Chairman Emerick began the meeting at 7:00 PM by introducing the Board members and leading the Pledge of Allegiance to the flag.

II. ATTENDING TO BE HEARD

07-085 Blake Barker - continued from 09/19/07
24 B Purington Lane
Use Change to Excavation/Contracting Business
Map 120 Lot 15-1

Mr. Barker requested a continuance to November 21, 2007 to allow the Board to review the information that was submitted that evening.

MOVED by Mr. Lessard

SECOND by Mr. Bilodeau

VOTE: 6-1-0 Mr. Higgins voted against **MOTION PASSED**

A change to the order of the Agenda was requested by the Chair to allow the following continued application to be heard under "Attending to be Heard".

07-064 Bernard Christopher - continued from 10/03/07 (First Hearing 06/06/07)
9-Lot Subdivision
87 Barbour Road (Sherburne Place)
Map 91/92 Lot 4-1/5
Owner of Record: Arthur Brown

APPLICANT

Mr. Henry Boyd representing Mr. Bernie Christopher and Mr. Arthur Brown addressed the Board.

Mr. Boyd began by stating that he had written a letter to Mr. Hangen, the DPW Director asking to meet to discuss the design of the LID. Mr. Boyd requested the Board's assistance and support, with respect to the dealings with the department heads. This request is asked, he explained, as it was the Board that had requested the applicant to design an alternative subdivision plan that is 180 degrees from the Board's subdivision regulations. The request of the Board would allow the incorporation of LID techniques for storm water management. Mr. Boyd is trying to be sensitive

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to the needs of the Town. Mr. Boyd noted that the DPW Director is not in favor of the alternative plan when it comes to reducing the roadway pavement width.

Mr. Steffen stated that a meeting with Mr. Hangen had been set up for 1:00pm November 8 to discuss the LID plan.

Mr. Boyd would like to know within a week on whether they redesign or go forward with the conventional plan, as they have not been able to do anything for the past five weeks.

Mr. Faulkner asked the Board where they were in the process.

Mr. Boyd has developed a road cross-section, which was sent with the letter to show what he is thinking with respect to the pavement reduction. Mr. Boyd also submitted pictures of a road design (a service road) in Seabrook NH, showing a roadway width of 20 feet. He noted that most local roadways are 24 feet width. The pictures showed the width of a road without curbing and incorporated swales for drainage.

Mr. Boyd stated that current Hampton regulations require 28 width pavement and stormwater management facilities. He noted that is what the DPW is favoring.

It was clarified that this is retention infiltration pond as opposed to a detention pond, which allows for the exaltation of water into the ground.

Mr. Boyd is proposing 20-foot width roadway, which will allow the engineer to design a more environmentally friendly subdivision. He explained that the DPW has suggested another design for the roadway; however, the suggestions do not work with the LID design. The LID design will allow the retention pond to be reduced in size, however, Mr. Boyd can not give assurances that the retention plan will not be totally eliminated with the LID design, as the calculations have not been done. He stated that the LID proposal will save Town money with respect to the maintenance of stormwater facilities, and the plowing, and maintenance of the road.

Mr. Boyd stated he cannot spend additional money for the redesign until the Board gives him assurance that the requested waivers from the subdivision regulations will be granted, in lieu of the opposition from the DPW Director to grant them.

BOARD

Mr. Emerick spoke to the issue of where the Board is at on this alternative. The DPW Director is electing to follow the requirements of the subdivision regulations and the Board is suggesting waiving the regulations to design a LID plan. It stated it comes down to the whether the Board will support the waivers.

Mr. Higgins spoke to the issue of underground retention areas being used. It was clarified that the lots have underground retention of water of the roof runoff but there still would need to be a retention pond for the roadway.

Mr. Boyd stated that NH regulations are stringent with respect to stormwater and the bottom of the infiltration pond needs to be four feet above the water table. He again stated in order to reduce the size of the retention pond the roadway pavement needs to be lessened. He noted that the swales convey the stormwater and allow for the infiltration of the water.

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Mr. Higgins spoke to the issue of the size of the cul-de sac, and if the reduction of the roadway will affect its size. Mr. Boyd stated that the cul-de-sac will not change in size with the reduction of the roadway and this is because of the required turning radius.

Mr. Brown noted that the soils are very well drained in the area, and if the Board is moving in this direction, he feels it is the perfect site for this alternative.

Discussion of the design of the road ensued and it was explained that the placement of water from the road will by design recharge the wells in this area under the LID design.

Mr. Boyd noted that Barbour Road is a major road, and is not 28 feet in width; it is generally about 23 feet in width.

Mr. McMahon spoke to the issue of a LID plan, and explained that this may not be a single case and that the Board may need to go further and revise its regulations to reflect the green concepts.

Mr. Higgins stated that the Board should not be approving retention ponds that create wetlands next to abutter's property. He feels that drainage areas should be designed to be underground.

It was explained that the intent is to reduce the size of the retention pond. Mr. Boyd explained that a wet pond is mostly due to the incorrect design of a retention pond and the introduction of invasive species that create the wetlands.

Mr. Brown requested that the Board to encourage DPW to support the LID plan. He stated they currently do not have any real direction from the Board to utilize that approach.

Mr. Emerick stated the Board is beginning to start that process and if DPW says no and it will then be up to the Board to waive the requirements, in opposition to the DPW if it wants to go with the LID design.

There was further discussion between Board members and the applicant on what direction the applicant should take, and several opinions were offered. It was noted that without the second engineering review the applicant cannot receive a decision on the conventional plan as quickly as they would like. It was noted that after the November 8 meeting the applicant should know what direction to proceed in.

MOVED by Mr. Higgins to continue application to December 5, 2007.

SECOND by Mr. McMahon

VOTE: 6-1-0 Tom Higgins opposed **MOTION PASSED**

III. NEW PUBLIC HEARINGS

07-092 Margaret & Gerald Camuso

56 Beach Plum Way

Special Permit to Impact Wetlands Conservation District to remove & replace existing deck with pavers; N-NE corner: square up & enclose existing deck; SE corner: square up & enclose building.

Map 134 Lot 31

Owner of Record: M & G Realty

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APPLICANT

Margaret Camuso, Homeowner and Ray Lavin, Building Contractor approached the Board. Ms. Camuso explained what she is proposing to do with the structural changes to her home. She explained that by enclosing two existing decks it will increase the first floor space. In addition, by replacing the deck with eco pavers it will allow for handicap accessibility for her husband.

PUBLIC

No comment

BOARD

Mr. Higgins asked if the monumentation on the easterly lot lines had been marked.

Ms. Camuso stated that they will be marked.

MOVED by Mr. Lessard to grant the Special Permit with the conditions of the Conservation Commission letter of October 24, 2007 and associated stipulations for plan drawn by Thane Pearson; dated 05-30-07, and revision date of 10-27-07

SECOND by Mr. Faulkner

VOTE: 7-0-0 **MOTION PASSED**

07-093 Andrew Guthrie

30, 34 & 36 River Avenue

Site Plan Review to construct a new two-family duplex to replace two units that were destroyed.

Waiver Request: Section V. E. 1, 2, 4, 8 and 15; Section VII B. 1.

Map 296 Lot 157

Owner of Record: Nana Beach Realty Trust

APPLICANT

Sharon Somers of Donahue, Tucker & Ciandella, PLLC represented applicant Andrew Guthrie, trustee of Nana Beach Realty.

Ms. Somers gave a brief overview of the proposal. She stated that there are currently two foundations and one building on the lot. The proposal is to rebuild the two structures that burned in February 2006. They have received the necessary variances from the ZBA. The plan has come before the Planning Board as required under the Site Plan Review Regulations for a multi-family development.

Ms. Somers spoke to the Town Planner's report. She has spoken to the Town Attorney he has advised Ms. Somers that due to the deed restrictions on this property the Board is precluded from acting on this petition. Ms. Somers noted that she reserves all rights to contest the Town Attorney's opinion. She stated that all her client wants to do is rebuild his properties and to move forward with this plan. She noted that they are in the process of drafting a petition warrant article to lift the deed restriction at Town Meeting. Ms. Somers also noted that her client is willing to waive the compliance requirements of jurisdiction procedure, but she requested that the Board deal with the waivers at this time. She explained in that way they might speed up the final approval if they get a favorable vote at the Town Meeting.

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BOARD

Mr. Higgins questioned Mr. Guthrie about his opposition to the duplex with garages development across the street in 2002, and that the cottages should remain the same in the neighborhood. That in August of 2002, Mr. Guthrie stated that garages were prohibited underneath the buildings across the street. Mr. Higgins also noted that in 2007 that Mr. Guthrie testified before this Board that the neighborhood should remain all cottages. Mr. Higgins asked what has changed that you [Mr. Guthrie] like duplexes and garages.

Ms. Somers stated that the issue before the Board is whether or not the proposal they have complies with the Boards site plan regulations and what my client has indicated in the past regarding other proposals is frankly is his own opinion. This proposal complies to zoning and it is asked of this Board now, is whether this proposal complies with site plan review regulations.

Mr. Higgins and Mr. Lessard spoke to the legality of the width and depth of one of the driveways as shown on the site plan and the architectural plan. Is size of the driveway 17.5 feet and if so then, the space would not be a legal parking space. Ms. Somers stated that the size of the parking space is 18 feet and she tried to clarify the plan issues.

Discussion ensued among the Board members and Ms. Somers continued to explain the two plans and the conflicting measurements. She explained that one plan depicts architectural details and the other is a site plan. Ms. Somers stated that the Board should only look at plan A-2.

Mr. Higgins questioned the situation regarding the safety of the cars, (including pedestrians), when the cars are backing out onto the street. He would like to have a window for the south sight line and windows would help on the on the three corners.

PUBLIC

No input from the public.

BOARD

Discussion ensued among the Board members, Mr. Steffen and Ms. Somers regarding the ZBA decision and the deed restrictions and the Town Attorney's opinion. Ms. Somers stated that the ZBA was advised to act just on the application requests, as the Town deed restrictions were not under their preview.

Mr. Emerick qualified that the applicant is requesting that the Board take jurisdiction and continue to sometime after the Town Meeting. Ms. Somers clarified what she was seeking - she would like the Planning Board to take jurisdiction and act on the waivers and continue the application after the Town Meeting to try to make as much headway as possible prior to the start of the construction season.

Mr. Lessard stated that the Board members may change after Town Meeting and the Board has always been consistent with voting on the waivers when deliberating during the approval process of the application.

Mr. Higgins stated again that he wanted clarification of the two conflicting plans as the measurements differ.

Ms. Somers explained that they needed to match the plan to the Cote plan and reference the ETW, which is the edge of pavement. The Cote plan is depicting a bigger area than the A2 plan.

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Mr. Higgins stated his confusion is the lot line on the A2 plan is a right angle and on Cote site plan, it is a slanted line.

Mr. Emerick stated that the applicant is requesting the Board is to act on the waivers now, which is contrary to the Board normal procedure, and asked for their reasons for the waivers considered at this time.

Ms. Somers stated the reason for the request to have waivers acted on now is that it would give them the chance to have the preliminary work done, and after the March 13th Town Meeting, it would allow them to immediately come in and have this matter dealt on. Ms. Somers stated again that their intent is to try to flesh out the issues regarding this proposal before the Town meeting voting. If the Board does not deal with the waivers now, it will be well into May before he can pull a building permit. Their intent is to get the Board's approval now and after Town Meeting come before the Board again for approval and then they will immediately begin building.

Mr. Emerick asked the Planner if he felt this was a reasonable request. Mr. Steffen stated he feels it is reasonable a request, as it would delay the Board's approval if they are not acted upon now.

Mr. Steffen gave outlined the requested waivers.

Discussion regarding following items ensued: What good are waivers without a correct plan; should not the dimensions be the same for both plan; determination of which plan the board should be reviewing; legality of the parking spaces; turning radii should be reviewed; the plan should go out for department review; stormwater issues; highway safety.

Mr. Workman clarified the question of the waiver of V.E.4; they are not proposing to pave the driveway and that is why they requested that waiver.

Discussion continued on the above noted items.

Mr. Emerick stated the normal process is to take jurisdiction and send out the plan for review.

Discussion ensued on continuance date of this application and whether it is prudence to act on this application before the Town Meeting.

Mr. Lessard asked the applicant's representative what if the deed restriction petition does not pass at Town Meeting; what is their plan B?; maybe the Board should have that plan too.

Ms. Somers stated the Board has enough before them to consider this plan, and consider what is before them and that they will deal with Plan B.

Discussion ensued on what the Town Attorney wrote in his opinion on how the Planning Board should proceed.

Mr. Higgins requested that the applicant appear before the Hampton Beach Area Commission building design review as well.

Discussion and additional questions about the development of the site continued on the following items: Will the driveway, be gravel/sand or paved; impervious/previous surfaces, drip lines, setbacks of the existing house; snow storage, water runoff; roof runoff; parking all around the

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structures; is more information is needed to make a decision; is this a buildable plan with regard to life safety issues; design of the building; dimensional variations.

Motion to send out to every department for review was made by Mr. Lessard.

Mr. Workman had previously made that motion and now has withdrawn his motion.

Ms. Somers asked to speak to the waivers, as she had not been able to address them previously.

Discussion and debate about what motions had incurred and resolved.

ACTION ON WAVIER REQUESTS:

Section V. E. 1 Existing Topographic Plan and Contours

MOVED by Mr. Lessard not to grant the waiver of **Section V. E. 1** Existing Topographic Plan and proposed Contours. Mr. Lessard moved to deny because there will be excavation of the land for the foundation and regrading of the site.

SECOND by Mr. Higgins

VOTE: 7-0-0 **MOTION PASSED**

Debate and discussion on the granting the waivers or not, continued and Ms. Somers discussed why the application need not show the contours of the land.

Waiver request for V.E.2. Wetland Delineation. Ms. Somers noted that at time of application, the report was not available, but it is and was furnished to the Board so she asked that this request be withdrawn. Withdrawal accepted.

Section V. E. 4 Typical Pavement Section

MOVED by Mr. Lessard not to grant the waiver of **Section V. E. 4** Typical Pavement Section. The Board requires the information to know what the materials will be and where it will be placed.

SECOND by Mr. Higgins

VOTE: 7-0-0 **MOTION PASSED**

Discussion ensued regarding the use of crushed stone and its merits.

Ms. Somers commented that given to what they are proposing; crushed stone; she feels that the typical pavement section would not be needed.

Section V. E. 8 Stormwater Drainage Control Plan

Ms. Somers addressed the issue of **Section V. E. 8** and stated that the impervious surface has reduced and does not feel under the Boards standard it is unreasonable to grant this waiver.

MOVED by Mr. Lessard not to grant the waiver of **Section V. E. 8** Stormwater Drainage Control Plan: The Board requires additional information with respect to the stormwater runoff from the building and gutters. He stated a more detailed plan is required for the engineering review.

SECOND by Mr. Higgins

VOTE: 7-0-0 **MOTION PASSED NOT TO GRANT**

Section V.E. 15 Soil Erosion and Sediment Control Plan

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MOVED by Mr. Lessard not to grant the waiver of **Section V. E. 15.** Soil Erosion and Sediment Control Plan. The Board needs to know the best management practices that will be implemented by the applicant.

SECOND by Mr. Higgins

VOTE: 7-0-0 **MOTION PASSED**

Section VII. B.1 Paving of Driveways

MOVED by Mr. Lessard not to the grant the waiver of **Section VII. B.1.** Paving of Driveways. The Board needs to know the best management practices of the applicant for this project.

SECOND by Mr. Higgins

Mr. Workman clarified what the motion meant that was being voted on. The vote was not to grant as much as not to deny the waiver at this time.

VOTE: 6-1-0 **MOTION PASSED MOTION FAILED TO DENY**

Discussion ensued on the paving of driveway with eco pavers but not in other areas which would discourage additional cars from parking on the property; what is the landscaping proposed; drainage onto Town land; parking areas are to be clearly delineated on the plan.

MOVED by Mr. Workman to not act on this waiver **Section VII. B. 1.** Paving of driveways until after the typical pavement plan is submitted.

SECOND by Mr. Higgins

VOTE: 7-0-0 **MOTION PASSED NOT TO ACT ON THE WAIVER**

MOVED by Mr. Lessard to continue to December 19, 2007 and to require the applicant to submit the requested information to the Board by November 21, 2007 for departmental review and send the building plans to Hampton Beach Area Commission for comment.

SECOND by Mr. Higgins

VOTE: 7-0-0 **MOTION PASSED**

MOVED by Mr. Lessard to require on the plans all items that were not waived - lighting, landscaping, delineation of the legal parking spaces, and snow storage location.

SECOND by Mr. Bilodeau

VOTE: 7-0-0 **MOTION PASSED**

Mr. Emerick read two letters of opposition into the record.

IV. CONTINUED PUBLIC HEARINGS

07-046 Frank Sestito – continued from 10/17/07 (First Hearing 06/06/07)
Special Permit to Impact Wetlands Conservation District to install retaining wall and raise elevation of yard
11 Fieldstone Circle
Map 42 Lots 41-43

APPLICANT

Mr. Christopher Boldt of Donahue, Tucker & Ciandella, PLLC, and Luke Hurley of Gove Environmental representing Frank Sestito approached the Board.

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Mr. Boldt stated that they are no longer asking for a special permit as they have received approval from Conservation Commission for the restoration plan for the backyard. He stated the under Article II, Section 2.3.7.E.4 of the Zoning Ordinance all they need is the Conservation Commission's approval.

Discussion ensued about the jurisdiction of the Board with respect to the restoration plan. The question of where in the regulations it states the Conservation Commission's approval is the final step. The discussion also focused on the Board's opinion that a special permit needs to be granted to do the restoration plan.

BOARD

Mr. Steffen read portions of the Town Attorney's opinion on the Board's jurisdiction on this application.

Discussion ensued between Mr. Boldt and Mr. Higgins on what was requested and when to be submitted to the Board for the meeting. Mr. Boldt read from his notes of what he said the Planning Board told Luke Hurley to do.

Mr. Higgins read the stipulations of the August 15, 2007 meeting and noted that the applicant knew what was expected of him for the meeting and still did nothing.

Mr. Boldt stated that material was provided. There is a letter from Mr. Sestito that states that are no pictures, and that he is not the kind of guy to take pictures. Mr. Boldt stated there are two invoices showing the amount of trees that were removed and the core samples drawn by Mr. Hurley.

Mr. Higgins stated that it was not here for the October 17th, meeting as requested. It was determined it was passed in on November 5th, this was after the deadline for the November 11th meeting. Mr. Higgins stated that you had five days before the meeting to hand the information to us.

Mr. Steffen read the October 19th, 2007 decision letter regarding the applicant submittal requirements and that no date for submittal was stated.

Mr. Higgins stated that the Planning Board has regulations concerning information which is to be submitted to the Planning Board, and that information needs to be to submit several day before the hearing.

Ms. Ostman informed that the Board has a deadline date of five days for information on submittals that do not require public hearings.

Discussion among members and Mr. Boldt continued on what was requested and what could be produced. The minutes of the August 15 were read in the record, which outlined what was required of the applicant.

Mr. Boldt stated that the soil borings and excavation had been discussed with the Conservation Commission and that it was decided that soil borings were not necessary in this case because Mr. Hurley had produced two core samples. He explained that those were the conditions of the restoration plan. Mr. Higgins reiterated it was what the Planning Board required not the Conservation Commission.

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Mr. Emerick outlined what was before the Board with respect to the restoration plan. All items have been addressed except for a budget for the excavation work.

Mr. Boldt stated that he expressly asked Atty. Gearreald and Mr. Steffen what the authority of the Board was to require a bond.

Mr. Steffen outlined the Town Attorney's opinion with the Board, as it was a confidential memo. The Board is not acting under Section 2.3.7.E.4. The Board is acting under 2.3.5, which allows the Planning Board to require conditions in order to grant special permits. This authority comes from the same RSA, which governs subdivision approval under Section VI .B. 2 of the Subdivision Regulations. He explained that this application is not an enforcement action under Section 2.3.7.E. The authority of the Board is under Section 2.3.5, as this is an after the fact special permit. The Planning Board has the final say on special permits, and the Conservation Commission's role is only to advise the Board. This section also does not preclude the Board from imposing a bond as a condition to a special permit.

Mr. Boldt stated that he disagrees with the Town Attorney's opinion. He feels that the Board has no express provision for the bond in the regulations for special permits. He also stated that the jurisdiction for enforcement is with the Board of Selectmen and Building Department and the approval of the restoration plan is with the Conservation Commission.

Mr. Boldt stated that his position and strongly disagrees with the statement that the Board can not require a bond. Mr. Boldt, my position, without waiving his position; that you do not have authority to require a bond; and that the price is not in any way close to \$25,000.00 as stated previously. Mr. Boldt quoted the amount at most to be \$4000.00. He stated that the work can be done by family members, so that there would be no labor cost. And the Board should not be concerned with this.

Mr. Emerick raised the issue of selling the property. Mr. Boldt indicated if, there are no plans to sell the property and Mr. Hurley misspoke when he said that. He feels that the Board does not have the authority to require the bond.

Mr. Emerick explained that the Board is going forward with the special permit and the surety and if Mr. Boldt has an issue with that he can deal with it, however he wishes.

Discussion ensued on what the applicant is now requesting: whether it was a restoration plan without a special permit, it was stated that the work required to do the restoration requires a special permit.

Mr. Steffen clarified the requests for continuances - at the time, the applicant wanted to pursue keeping the area as it is.

Mr. Boldt stated it was not clear in the regulation regarding the restoration plan requirements under 7.E

Mr. Emerick asked Mr. Boldt whether he was requesting to withdrawn and that he was stating that the applicant did not need to do a restoration plan.

Mr. Workman stated that he can withdraw the application as per his representation and he can walk out right now.

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Mr. Boldt stated he was thinking he could and he would like to do this by agreement. Mr. Emerick stated that the board is not an enforcement board as highlighted by Mr. Boldt. Mr. Boldt stated that they want to have what is before the board approved and want the mitigation plan done, even if it needs be by special permit.

Mr. Higgins and Mr. Lessard asked about the original subdivision plan and what should be shown on the plan now. Mr. Hurley stated that this plan is a restoration plan, not an engineer's plan. He explained that the lot is existing, and they were unsure of the date of mapping for wetlands on the original subdivision plan.

Mr. Lessard stated he would like a plan stamped by a land surveyor and the wetland mapping to be dated as well.

Discussion ensued on what was originally submitted with the application. It was stated that the subdivision plan was included with the Conservation Commission package. [Note: at the time of submittal of this application, the required number of plans and applications to be submitted, was four.]

Mr. Boldt stated the Mr. Hurley could give testimony to the price of the restoration work.

Mr. Hurley repeated his original quote of an amount for the plants @ \$700.00, and the excavation @ \$4000.00 for 3500 square feet. They would not have to regrade it, as the work is done through the process of restoration. The work will go to the point of original topsoil. The removal of the wall would be last piece to be done.

Discussion on the surety.

Mr. Boldt suggested that his client place in his Attorney's trust account the amount of \$5000.00 with escrow agreement, which he must prove exists and that the Town Attorney agrees to and signs off on.

The release of the surety will be based on the Town Planner's, and Conservation Commission sign-offs.

Mr. Emerick addressed the issue of having to amend the Special Permit to reflect the current request for the restoration plan.

Mr. Boldt requested the modification to the Special Permit application in the following manner: to remove the language of "to install retaining wall and raise elevation of yard" from the Special Permit application; to be replaced with the following language "Special Permit to Impact Wetlands Conservation District for the removal of the wall and the restoration of the yard to previous condition as described on the plans as approved by the Conservation Commission, shown on plan by Jones and Beach dated 11-02-07; sheet number C-7 and project plan #07030.

It was clarified what the board was voting on. The modification of the application request and the restoration plan as approved by the Conservation Commission.

MOVED by Mr. Lessard to accept applicants counsel's request to modify the special permit application request: "to install retaining wall and raise elevation of yard" from the Special Permit application; to be replaced with the following language "Special Permit to Impact Wetlands Conservation District for the removal of the wall and the restoration of the yard to previous

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condition as described on the plans as approved by the Conservation Commission shown on plan by Jones and Beach dated 11-02-07; sheet number C-7 and project plan #07030.

SECOND by Mr. Bilodeau.

VOTE: 5-2-0 Mr. Workman and Mr. Lessard voted against **MOTION PASSED**

MOVED by Mr. Lessard to grant the Special Permit to accomplish restoration plan as approved by the Conservation Commission shown on plan by Jones and Beach dated 11-02-07; sheet number C-7 and project plan #07030. Subject to requiring a Land Surveyors stamp; subject to the September 20, 2007 letter from Gove Environmental Services, Inc; surety to be established in the Mr. Boldt's Attorney Trust Account, signed by the applicant, his attorney and the and the Town Attorney; to implement restoration of the yard by June 21 2008, with final approval by the Town Planner, the Conservation Coordinator and the Conservation Commission Chair; Gove Engineering to provide an one-year warranty on the plantings.

SECOND by Mr. Bilodeau.

VOTE: 4-3-0 Mr. Workman, Mr. Bilodeau and Mr. Higgins voted against.

MOTION PASSED

07-054 Nyhan, William - continued from 10/03/07 (First Hearing 06/06/07)
Special Permit to Impact Wetlands Conservation District to construct single family home at
3 Gale Road
Map 23 Lot 4-1

APPLICANT

Mr. Coronati represented the applicant. He stated that the Zoning Board of Adjustment has granted approval of the plan that was submitted to the Planning Board.

BOARD

Discussion ensued on the Conservation Commission's recommendation to deny the application.

Discussion ensued on the issue of the seventy-five foot boundary and buffer. The septic system is outside the wetland buffer but within the seventy-five foot setback at 53" 9".

Discussion ensued on the conditions of the approval of the Zoning Board of Adjustment. Mr. Workman clarified the issue of what the Board was voting on. The Board is voting on their regulations and the ZBA relief is not the preview of the Board. The Conservation Commission is an advisory board; the Board can consider the Conservation Commission's recommendation.

The Conservation Commission's concern is if the system fails, it will endanger the health and safety of the public welfare. This is due to the system being so close to the watershed, so if it fails it could go into the Taylor River.

Ms. Ostman explained the intent of the Board's letter that was written to Kevin Schultz and the ZBA. The intent was to ensure that the Zoning Board of Adjustment knew of the plan that was being reviewed by the Planning Board and was acceptable to them.

Discussion ensued on the issuance of the variance and how it influences the Planning Board's decision. Mr. Workman explained the issuance is only for zoning relief from the seventy-five foot setback; the Planning Board cannot override the variance, however, he explained that the

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Planning Board has their own criteria and whether or not a variance has been granted the Planning Board can still deny the application. The ZBA decision does not compel the Board to approve an application.

Mr. Coronati explained what the purpose of the Special Permit is and stated it is not for the installation of the septic system, but for the re-grading of the area for the system, the driveway and re-grading around the house.

MOTION by Mr. Workman to approve the special permit to construct a single-family home at 3 Gale Road shown on Plan dated August 08, 2007; Sheet C-2; Jones and Beach Project #06208

SECOND by Mr. Faulkner

VOTE: 4-3-0 Mr. Higgins, Mr. McMahon and Mr. Bilodeau voted against. **MOTION PASSED**

07-082 Hampton Harbor Marina LLC - continued from 10/03/07

Special Permit to Impact Wetlands Conservation District to replace falling riprap along inner marina basin and to replace failed bulkhead (bulkhead work already preformed.

55 Harbor Road

Map 295 Lot 1

Owner of Record: Hampton River Marina

APPLICANT

Luke Hurley representing the applicant apologized and explained why he was not at last meeting. Mr. Hurley explained the application. The work previously permitted was emergency work done on the outside wall of the marina. The work needed to be done now is to replace in-kind the riprap on the inner walls of the marina that is in disrepair. He indicated they will be placing silt booms to prevent siltation infiltration while the work is preformed.

BOARD

Mr. Higgins question the removal of the boat launch ramp and its effect on the boating community's ability to remove the larger boats from the water in Hampton. He noted the closest boat launch capable of removing the larger boats is in Newburyport, MA.

MOVED by Mr. Lessard to approve the Special Permit shown on Plan dated 07/12/07; Sheet 1 of 1; Drawing W1 and JBE Project No. 02134 with the conditions of the Conservation Commission's letter of 9/27/07 and stipulations.

SECOND by Mr. Bilodeau

VOTE: 7-0-0 **MOTION PASSED**

07-091 Malcolm Smith - Pondside LLC - continued from 10/17/07

221 Woodland Road

Minor Lot Line Adjustment

Map 96 Lots 1 & 3

Applicant requested a continuance to the meeting of 11-21-07.

MOVED by Mr. Lessard to continue to the meeting of November 21, 2007.

SECOND by Mr. Bilodeau.

**HAMPTON PLANNING BOARD
Minutes of November 7, 2007**

VOTE: 7-0-0 **MOTION PASSED**

V. CONSIDERATION OF MINUTES of October 3 & 17, 2007

October 3, 2007 minutes.

Approved and accepted as submitted. Mr. Higgins and Mr. Workman abstained.

October 17, 2007 minutes.

Page 2, fifth paragraph. Replace with the following.

Mr. Higgins asked Ms. Goethel if the letter is an approval, or are we issuing a conditional approval on a conditional approval. Mr. Higgins does not see this as an approval. He would like to this clarified, has Mr. Zuba met the requirements and has the Commission approved the plan.

Page 4, six paragraph. Replace with the following.

Mr. Higgins stated that the conditions of the original continuance have not been fulfilled. He asked where are the pictures showing the yard before the work was done; the invoices for the tree cutting, and how many were cut down, and the soil boring report were.

Replace the date of September 19, 2007 with August 15, 2007 on all pages that that date is referenced.

Approved and accepted with corrections as noted.

VI. CORRESPONDANCE

VII. OTHER BUSINESS

1. Dalton Lane Subdivision (89 Woodland Road) Bond reduction request

MOTION by Mr. Workman to approve the reduction of the bond for the Dalton Lane subdivision in the amount of \$167,425 with \$42,575 remaining in the surety.

SECOND by Mr. Bilodeau.

VOTE: 7-0-0 **MOTION PASSED**

MOTION by Mr. Lessard to request the Planning Board in written form to the Board of Selectmen that they dedicate the Annual Town Report in honor and memory of Mr. Thomas Gillick.

Mr. Workman noted that the Selectmen have done that request and he will be honored to relay the Planning Board's recommendation to them.

SECOND by Mr. Bilodeau.

VOTE: 7-0-0 **MOTION PASSED**

VIII. ADJOURNMENT

Meeting adjourned at 10:12PM

Respectfully Submitted,

Kristina G. Ostman
Planning Coordinator